

In the Matter of Merchant Mariner's No. Z-816232-D1 and all other Seaman Documents
Issued to: ANTHONY BROWN

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1261

ANTHONY BROWN

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 24 April 1961, an Examiner of the United States Coast Guard at Port Arthur, Texas suspended Appellant's seaman documents for six months upon finding him guilty of misconduct. The specification found proved alleges that while serving as a pumpman on board the United States SS TEXACO MISSISSIPPI under authority of the document above described, on 20 April 1961, Appellant assaulted and battered the Mate on watch, Herbert Priddy.

At the hearing, Appellant acted as his own counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence the testimony of Mate Priddy, the relief quartermaster, and the dock watchman.

In defense, Appellant testified that he was completely intoxicated and was aggravated when the Mate grabbed a case of beer out of Appellant's hands.

At the end of the hearing, the Examiner rendered the decision in which he concluded that the charge and specification had been proved.

FINDINGS OF FACT

On 20 April 1961, Appellant was serving as a pumpman on board the United States SS TEXACO MISSISSIPPI and acting under authority of his document while the ship was loading cargo in the port of Atreco, Texas. About 0040 on this date, Appellant and another seaman named Green returned to the ship with a case of beer. Appellant carried the beer on board although crew members were not allowed to have intoxicating beverages on the ship. Relief Mate Priddy was on watch and in charge of the ship. He identified himself to Appellant and told him to get rid of the beer. Seaman Green took the beer from Appellant and threw it over the side. With his fists, Appellant struck the mate several blows on the head. The Mate did not retaliate but tried to protect himself. His eyeglasses were knocked off by Appellant. Seaman Green took

Appellant away. The Mate suffered a black eye and various head bruises. Appellant was arrested and taken ashore by the local police authorities.

Appellant has no prior record.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant admits that he was guilty of the offense but requests clemency because he was irresponsible due to intoxication, he is the main source of support for his mother, and he has been going to sea since 1946 without prior difficulty of any kind.

APPEARANCE OF APPEAL: Freedman, Landy and Lorry of Philadelphia, Pennsylvania, by Joseph Weiner, Esquire, of Counsel.

OPINION

The order of six months' suspension will be affirmed. Appellant's intoxication at the time of this incident is no excuse for his behavior. This was a particularly serious infraction of discipline since the assault and battery occurred after Appellant had been informed by Mate Priddy that he was the person in charge of the vessel during the loading operations.

Whether or not the Mate took the beer out of Appellant's hands is not material to proof of the offense. However, the Examiner accepted the Mate's testimony that Green was the person who took the beer from the Appellant and threw it overboard. This version was corroborated by the other two Government witnesses. Hence, the only provocation of any kind was when the Mate told Appellant to get rid of the beer.

Under the circumstances, there is no reason to modify the order imposed regardless of Appellant's prior clear record and his personal financial responsibilities.

ORDER

The order of the Examiner dated at Port Arthur, Texas on 24 April 1961, is AFFIRMED.

A.E. Richmond
Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C., this 11th day of October 1961.